

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **July 8, 2003**

AGENDA ITEM NO.: **7**

CONSENT:

REGULAR: **X**

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Rezoning petition – Associated Alarm & Camera, Inc., 430 Graves Mill Road**

RECOMMENDATION: Approval of the requested rezoning.

SUMMARY: Associated Alarm & Camera, Inc., has petitioned to rezone 0.63 acre located at 430 Graves Mill Road, from R-4, Multi-Family Residential District, to B-3 (Conditional), Community Business District to allow the use of an existing building and parking for security offices and accessory retail. The Planning Division (PD) recommended approval of the rezoning because:

- Petition does not agree with the Future Land Use Map (FLUM) which recommends a Medium-Density Residential use for the subject property; however, changes to the FLUM are in order for this area of Graves Mill Road.
- The petition is in compliance with other development policies of the Comprehensive Plan 2002-2020 in that (1) significant changes in future land use are recommended for this area, and rezonings from residential to districts that permit office uses would be in order (Section 4.24); (2) the City's commercial base should be expanded while limiting the potential environmental and community impacts of commercial development (Section 9.3); and (3) goals and objectives include identifying areas that are appropriate for redevelopment to accommodate expansion of existing or new businesses (Section 7.7).
- The Planning Division will recommend amending the FLUM at a later date to show the area subject to this petition and the adjacent Cluster Commercial Development as a Community Commercial use.
- Petitioner offers a proffer that restricts more intensive commercial uses allowed by the B-3 Zoning District.
- Petition is compatible with the surrounding land use and zoning.

OTHER INFORMATION: none

PRIOR ACTION(S):

June 11, 2003: Planning Division recommended approval of the rezoning.
Planning Commission recommended approval (6-0, with one member absent) of the rezoning.

FISCAL IMPACT: N/A

CONTACT(S):

Rachel Flynn / 847-1508, ext. 253
Tom Martin / 847-1508, ext. 226
Annette Chenault / 847-1508, ext. 258

ATTACHMENT(S):

- Resolution
- PC Report
- PC minutes
- Site plan
- Vicinity map

REVIEWED BY: lkp

ORDINANCE

AN ORDINANCE CHANGING A CERTAIN AREA FROM R-4 MULTI-FAMILY RESIDENTIAL DISTRICT TO B-3 (CONDITIONAL) COMMUNITY BUSINESS DISTRICT.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG That in order to promote the public necessity, convenience, general welfare and good zoning practice that Chapter 35.1 of the Code of the City of Lynchburg, 1981, as amended, be and the same is hereby further amended by adding thereto Section 35.1-76.____, which section shall read as follows:

Section 35.1-76.____. Change of a certain area from R-4, Multi-family Residential District to B-3 (Conditional), Community Business District.

The area embraced within the following boundaries . . .

All that certain tract or parcel of land situate at #430 Graves Mill Road in the City of Lynchburg, Virginia and further described as follows:

Beginning at an iron pin found (IPF), which IPF is a common corner with the property of Jean N. Johnson located on the easterly right-of-way line of Graves Mill Road,

Thence N 50° 45' 08" E for a distance of 182.16 feet to an iron pin set (IPF), a common corner with said Johnson and the property of Graves Mill Office Park;

Thence S 46° 32' 02" W for a distance of 190.47 feet to an IPS, which IPS is a common corner with said office park located on the easterly right-of-way line of Graves Mill Road;

Thence, along said right-of-way line, N 36° 22' 13" W for a distance of 155.17 feet to the point of beginning;

Together with and subject to covenants, easements, and restrictions of record.

Said property contains 0.631 acres more or less.

. . . is hereby changed from R-4, Multi-Family Residential District to B-3 (Conditional), Community Business District, subject to the conditions set out hereinbelow which were voluntarily proffered in writing by the owners, namely: Christina M. Pachon and Michael B. Magri, to wit:

1. "All mature oak and poplar trees on the property will not be cut or destroyed. There are, however, four white pine trees that will be removed (at the front of the property) as well as three cedar trees. Replacement trees will be planted in accordance with the City of Lynchburg guidelines.
2. Existing landscaping will be used and improved with mulch beds.
3. Any other retail use beyond the scope of Associated Alarm & Camera, Inc., security offices would be prohibited. In the event the proposed use ceases operation, there will be allowed no more intensive uses for the property than those permitted by right in a B-1, Limited Business District.
4. The identification sign will be a monument type ground sign, maximum seven feet high and 35 square feet in area with a landscaped base.
5. The site will be developed in substantial compliance with the site plan by Berkley-Howell & Associates dated May 5, 2003 and revised June 3, 2003."

And the Director of Community Planning and Development shall forthwith cause the “Official Zoning Map of Lynchburg, Virginia,” referred to in Section 35.1-4 of this Chapter to be amended in accordance therewith.

Adopted:

Certified:

Clerk of Council

121L

To: Planning Commission
From: Planning Division
Date: June 11, 2003
RE: **REZONING: R-4 to B-3 CONDITIONAL at 430 GRAVES MILL ROAD**

I. PETITIONER

Associated Alarm & Camera, Inc., 17912 Forest Road, Suite C, Forest, VA 24551

Representative: Mr. Kenneth Frederick, President, Associated Alarm & Camera, Inc.

II. LOCATION

The subject property is a tract of 0.63 acre located at 430 Graves Mill Road.

Property Owners: Ms. Christina M. Pachon and Mr. Michael B. Magri, 132 Hunting Lane, Goode, VA 24556

III. PURPOSE

The purpose of the petition is to rezone the subject property from R-4, Multi-Family Residential District to B-3 (Conditional), Community Business District, to allow the use of an existing building and parking for security offices and accessory retail.

IV. SUMMARY

- Petition does not agree with the Future Land Use Map (FLUM) which recommends a Medium-Density Residential use for the subject property; however, changes to the FLUM are in order for this area of Graves Mill Road.
- The petition is in compliance with other development policies of the Comprehensive Plan 2002-2020 in that (1) significant changes in future land use are recommended for this area, and rezonings from residential to districts that permit office uses would be in order (Section 4.24); (2) the City's commercial base should be expanded while limiting the potential environmental and community impacts of commercial development (Section 9.3); and (3) goals and objectives include identifying areas that are appropriate for redevelopment to accommodate expansion of existing or new businesses (Section 7.7).
- The Planning Division will recommend amending the FLUM at a later date to show the area subject to this petition and the adjacent Cluster Commercial Development as a Community Commercial use.
- Petitioner offers a proffer that restricts more intensive commercial uses allowed by the B-3 Zoning District.
- Petition is compatible with the surrounding land use and zoning.

The Planning Division recommends approval of the rezoning petition.

V. FINDINGS OF FACT

1. **Comprehensive Plan.** The *Comprehensive Plan 2002-2020* recommends a Medium-Density Residential use for the subject property. The proposed rezoning of this property is not in compliance with the Future Land Use Map (FLUM). It should be noted that the Cluster Commercial Development adjacent to the subject property is shown as a Medium-Density Residential use on the FLUM. Changes to the FLUM are in order for this area of Graves Mill Road. The Planning Division will recommend amending the FLUM at a later date to show the property subject to this petition and the adjacent Cluster Commercial Development as a Community Commercial use.
2. **Zoning.** The property was annexed into the City in 1976 and was zoned for residential uses. The existing R-4, Multi-Family Residential District zoning was established in 1992 when the City Council approved the Graves Mill Road/U.S. 221 Area Land Use Study & Growth Management Program amending the zoning map to reflect the rezoning of the subject and surrounding properties from R-3, Medium Density Residential District to R-4, Multi-Family Residential District.
3. **Proffers.** The petitioner voluntarily submitted the following proffers with the zoning application:

- “All mature oak and poplar trees on the property will not be cut or destroyed. There are, however, four white pine trees that will be removed (at the front of the property) as well as three cedar trees. Replacement trees will be planted in accordance with the City of Lynchburg guidelines.
- Existing landscaping will be used and improved with mulch beds.
- Any other retail use beyond the scope of Associated Alarm & Camera, Inc., security offices would be prohibited. In the event the proposed use ceases operation, there will be allowed no more intensive uses for the property than those permitted by right in a B-1, Limited Business District.
- The identification sign will be a monument type ground sign, maximum seven feet high and 35 square feet in area with a landscaped base.
- The site will be developed in substantial compliance with the site plan by Berkley-Howell & Associates dated May 5, 2003 and revised June 3, 2003.”

4. **Board of Zoning Appeals (BZA).** The Zoning Official has determined that no variances will be needed for the proposed use.

On November 25, 1997, the BZA granted a Conditional Use Permit and variance for use of the existing building for a counselor’s office conditional that a vegetative evergreen buffer be planted along the left property line.. This use has since been vacated.

5. **Surrounding Area.** The following are items in the surrounding area that have required City Council approval:
- On May 11, 1999 the City Council approved the petition of D. Scott and Richard R. Zechini for (1) the rezoning of 424 Graves Mill Road from R-4, Multi-Family Residential District to B-1 (Conditional), Limited Business District, to allow office use of the property and (2) for a Conditional Use Permit to allow the property to be used as a Cluster Commercial Development for four buildings with approximately 95 parking spaces.
 - On December 9, 1997 the City Council approved the petition of William F. Overacre for the rezoning of 427 and 427A Graves Mill Road from I-1, Restricted Industrial District to B-3 (Conditional), Community Business District to allow the construction and operation of buildings for commercial service and retail uses.
 - On October 13, 1992 the City Council approved the Graves Mill Road/U.S. 221 Area Land Use Study & Growth Management Program amending the zoning map to reflect the rezoning of the Graves Mill Road/U.S. 221 Land Use Study from R-3, Medium Density Residential District to R-4, Multi-Family Residential District.
6. **Site Description.** The subject property is a lot comprised of .63 acre. It has an existing 1 ½ -story brick house that was built in 1952 with a residential detached garage and several existing parking spaces located next to the garage . The property is bordered to the north by a residential use, and to the east, south and west (across Graves Mill Road) by commercial uses. The property lies relatively flat with well-established landscaping around the house and yard including several mature trees.
7. **Proposed Use of Property.** The purpose of the rezoning is to allow the use of the existing house and parking for security offices and accessory retail. The existing garage would be used for incidental and personal storage. Two additional parking spaces are proposed to be installed in front of the house.
8. **Traffic & Parking.** The City Traffic Engineer reported that there would be negligible increase in traffic for this proposed use. The driveway entrance is required to be widened to 30’ and must meet commercial standards. The Traffic Engineer determined that the existing earth bank on the south (right) side of the property would be required to be graded down to improve the site distance to a minimum of 325’ on Graves Mill Road.

9. **Storm Water Management.** A storm water management plan will be required for the proposed paved parking of the existing gravel drive and parking areas because the disturbed area will exceed 1,000 square feet. An Erosion and Sediment Control/Stormwater Management Plan and Narrative will be required as well as other associated agreements and bonds.
10. **Impact.** The petition proposes the rezoning of a .63 acre parcel of land from R-4, Multi-Family Residential District to B-3 (Conditional), Community Business District to allow the use of an existing building and parking for security offices and accessory retail. The existing garage would be used for incidental and personal storage. The more intensive B-3 Zoning District is required because there will be retail display of items accessory to the security business, such as alarms and listening devices. These items generally will not be available for over-the-counter sale but will be on display for special ordering. The petitioner has proffered certain conditions to help assure the development will be compatible with the community, including the proffer that, *“Any other retail use beyond the scope of Associated Alarm & Camera, Inc., security offices would be prohibited. In the event the proposed use ceases operation, there will be allowed no more intensive uses for the property than those permitted by right in a B-1, Limited Business District.”*

The subject property rises slightly from Graves Mill Road and lays relatively flat with retaining walls on the south (right) and east (rear) sides of the property. The site has a mixture of mature hardwoods and softwoods, with several of the softwoods (white pines and cedars) proposed to be removed. In order to provide a higher quality development and adequate buffering for the residential development to the north, the developer has proposed additional evergreens to supplement the existing vegetation. Street trees are required to be installed along Graves Mill Road.

The subject property is bounded on the south (right) and east (rear) portions by a B-1 (Conditional) Cluster Commercial Development (CCD) which consists of four identical office buildings of 1½ stories each. The buildings rise above the subject parcel approximately 12-15 feet; and, although an evergreen vegetative buffer has been planted between the subject parcel and the CCD, the CCD is a visibly imposing development. Heritage Funeral Home, located across Graves Mill Road from the subject parcel, also is built on a hill, rising above the subject property.

The front portion of the property is located in the Scenic Corridor Overlay District (SC). The regulations of the SC include site development standards that are more restrictive than traditional commercial zoning districts. The SC extends back about 60 feet onto the property and covers the proposed parking spaces to be installed in front of the house. In this case since the property is already developed, applicability of the SC would include street trees and additional landscaping next to the parking area.

Land uses in the general vicinity of the subject property are currently a mixture. Land uses include multi-family residential, institutional, commercial and undeveloped land. The zoning is residential and commercial, with the land use and zoning pattern being established for the immediate area in the nature of limited business uses. Somewhat more intensive zones and uses have been established along the Expressway. Placing the subject property into a commercial zone with conditions that significantly limit the intensity of commercial uses provides a reasonable transition from the existing B-3 and B-5 zoning to the west for the residential area to the east.

The site distance on Graves Mill Road along the right (south) side of the property is currently approximately 275'. The Traffic Engineer has determined that the existing earth bank on this side of the property would be required to be graded down to improve the site distance to a minimum of 325' on Graves Mill Road.

Section 35.1-43.1 (b) of the Zoning Ordinance requires the submittal of proffers at least 21 days prior to the Planning Commission meeting. The petitioner submitted most of the proffers after the deadline. All of the proffers propose additional restrictions on the property. The late submittal of the proffers requires the Planning Commission to vote to waive the 21-day time restriction for the proffers.

11. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the preliminary site plan on May 20. Comments about the proposal were related to erosion and sediment control, entrance/site distance and landscaping improvements. Comments will be addressed by the developer prior to final site plan approval.
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VI. PLANNING DIVISION RECOMMENDATION

Waiver of 21-day prior submittal:

1. **That the Planning Commission waive the 21-day submittal requirement of Section 35.1-43.1 of the Zoning Ordinance to accept proffers submitted by Kenneth Frederick for the property at 430 Graves Mill Road.**
2. **Based on the preceding Findings of Fact, the Planning Commission recommends to the City Council approval of the petition of Associated Alarm & Camera, Inc., to rezone approximately 0.63 acre at 430 Graves Mill Road from R-4, Multi-Family Residential District to B-3 (Conditional), Community Business District to allow the use of an existing building and parking on the subject property for security offices and accessory retail.**

This matter is respectfully offered for your consideration.

William T. Martin
City Planner

pc: Mr. L. Kimball Payne, III, City Manager
Mr. Walter C. Erwin, City Attorney
Ms. Rachel O. Flynn, Director of Community Planning & Development
Mr. Bruce A. McNabb, Director of Public Works
Mr. Robert D. DeJarnette, Fire Marshal
Mr. J. Lee Newland, Director of Engineering
Mr. Gerry L. Harter, Traffic Engineer
Mr. Karl Cooler, Building Official
Mr. Arthur L. Tolley, Zoning Official
Mr. Robert S. Fowler, Zoning Official
Mr. Ty Mosby, Representative

VII. ATTACHMENTS

1. **Vicinity Zoning Pattern**
(see attached map)
2. **Vicinity Proposed Land Use**
(see attached map)
3. **Site Plan**
(see attached site plan)

MINUTES FROM THE JUNE 11, 2003 PLANNING COMMISSION MEETING.

Petition of Associated Alarm & Camera, Inc., to rezone approximately .63 acre at 430 Graves Mill Road from R-4, Multi-Family Residential District to B-3 (Conditional), Community Business District to allow the use of an existing building and parking on the subject property for security offices and accessory retail.

Ms. Annette Chenault, Planner II, explained to the Commissioners that the Planning Division had worked with Mr. Ken Frederick, the petitioner, to develop proffers and a site plan that would be appropriate for this location on Graves Mill Road. She said the B-3 zoning was necessary to allow accessory retail sales on site. She added that the petitioner had submitted several proffers, one of which restricted the B-3 uses to B-1 in the event the property was ever vacated.

Mr. Ken Frederick, 2215 Indian Hill Road, Lynchburg, owner of Associated Alarm & Camera, Inc., addressed the Planning Commission. Mr. Frederick introduced his partner, Mr. William Woollett, 1226 Dandridge Drive, Lynchburg. Mr. Frederick explained that the property at 430 Graves Mill Road consisted of a single-family home with a detached garage. He said he and his wife wanted to purchase this property and rent the building to the two companies, Associated Alarm & Camera, Inc., owned by himself and Mr. Woollett, and Blue Ridge Private Investigations, which Mr. Frederick said he was the sole proprietor of. He said this was an ideal location for their business, and with not have to make any changes to the interior of the house. Mr. Frederick said they would pave the driveway and the area behind the house for client and employee parking. He said they would install a handicap ramp and widen the width of the main door for easier access to the facility. He explained that the four large white pine trees on the property would be removed. He said due to their location they had been topped by the power company and were not very attractive. He added that the trees would be replaced with other types of vegetation, with the species having already been suggested by the City Urban Forester. He said the remaining shrubs and flowers would be trimmed and cleaned up.

Mr. John Saville, owner of Heritage Funeral Service, 427 Graves Mill Road, spoke in favor of the petition. Mr. Saville told the Commission that Mr. Frederick's plans would be good for the site.

Commissioner Pulliam asked if the existing gravel driveway would be paved.

Mr. Frederick responded that the driveway, as well as the parking lot in the back, would be paved.

Chair Dahlgren asked the City Traffic Engineer, Mr. Gerry Harter, for his comments on the traffic and grading of the driveway.

Mr. Harter explained that he had spoken with Mr. Frederick concerning the traffic and driveway. He said when he initially looked at the site, he discovered that because of the slope of the hill and the curve in Graves Mill Road, there was not adequate site distance. He said after talking to Mr. Frederick they came up with a solution to grade some of the hill above the proposed site, which would eliminate the site distance problem. He added that the property proposed to be graded was all in the City right-of-way. Mr. Harter said with the changes Mr. Frederick agreed to, the plan was much safer. He said the text concerning the grading was included on the site plan.

Ms. Chenault said the text was on the site plan, but the Commission could request Mr. Frederick to add another proffer if they wished to.

Commissioner Worthington asked if the adjoining resident was aware of these plans.

Mr. Frederick said the neighbor was aware of the plans and had no opposition.

Commissioner Wilkins asked if the grading would be done by the City or by the petitioner.

Chair Dahlgren said the grading would be done by the petitioner. He asked the Commissioners if they would like to have the grading proffered by the petitioner.

They Commissioners decided that the statement on the site plan concerning the grading being done by the petitioner was binding enough for them, and they did not think an additional proffer was necessary.

After discussion, Commissioner Echols made the following motion, which was seconded by Commissioner Wilkins and passed by the following vote:

“That the Planning Commission waive the 21-day submittal requirement of Section 35.1-43.1 of the Zoning Ordinance to accept proffers submitted by Kenneth Frederick for the property at 430 Graves Mill Road.”

AYES:	Dahlgren, Echols, Flint, Pulliam, Wilkins, Worthington	6
NOES:		0
ABSTENTIONS:		0

After discussion, Commissioner Pulliam made the following motion, which was seconded by Commissioner Wilkins and passed by the following vote:

“That the Planning Commission recommends to the City Council approval of the petition of Associated Alarm & Camera, Inc., to rezone approximately 0.63 acres at 430 Graves Mill Road from R-4, Multi-Family Residential District to B-3 (Conditional), Community Business District to allow the use of an existing building and parking on the subject property for security offices and accessory retail.”

AYES:	Dahlgren, Echols, Flint, Pulliam, Wilkins, Worthington	6
NOES:		0
ABSTENTIONS:		0